

LCP INSIGHT CLARITY ADVICE

ACA/APL joint sessional meeting 21 April 2016

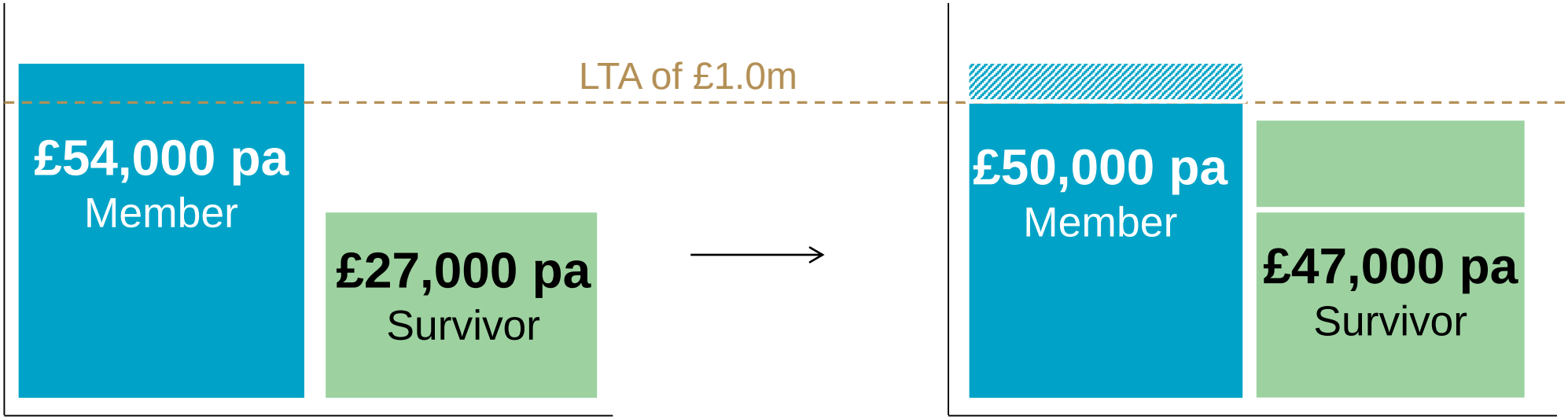
Karen Goldschmidt

Update on some pitfalls in the current pensions tax regime – including some good news

Lane Clark & Peacock LLP Trustee Consulting Investment Consulting
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A DSP test has existed in tax law since 2006…

Because survivor pension is invisible to Lifetime Allowance ..



HMRC value	**£1.08m**
Say LTA	£1.00m
LTA charge on	**£0.08m**
(ie on £4,000 pa excess)	

HMRC value 1.00m

No LTA charge

Aim of the tests?

- Pass if within reason
- But don't abuse (too much/shaping)

Test **at** death and every year **after**

Fail = part of each

DSP paid unauthorised

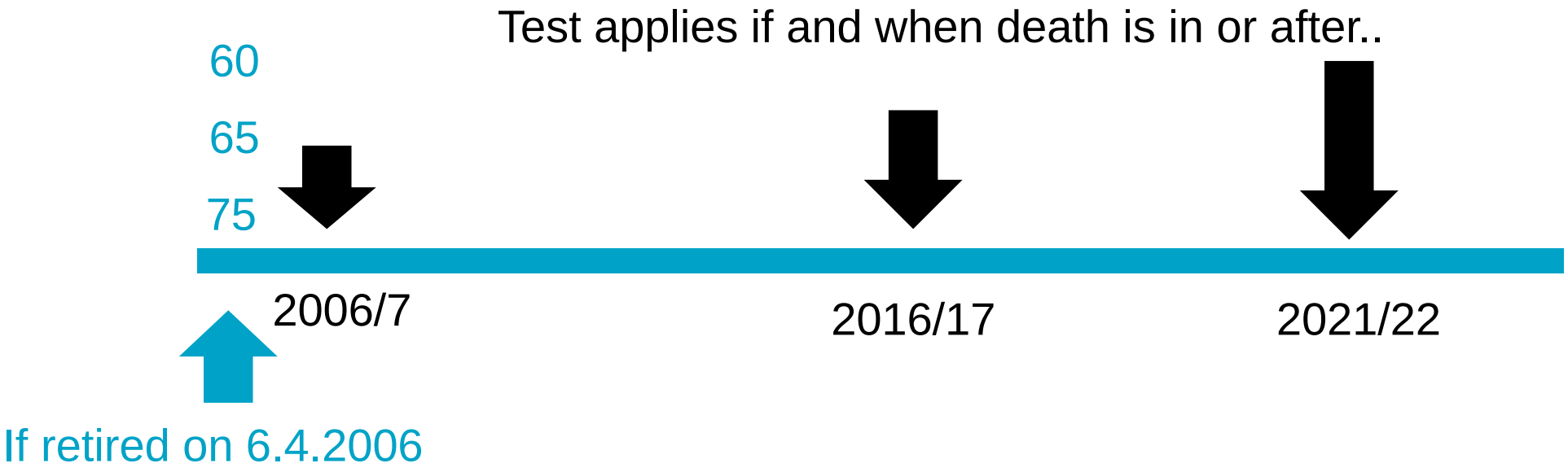


The test applies only for a specific group

so not noticed much publicly yet

The test applied to a DSP arising from the death of a member with “scheme pension” (= usually DB pension) only if

- The member started his pension on or after A day (6 April 2006)
- AND the member died on or after his 75th birthday



Test is at and after death … but Immediate issue as relevant to options exercised at retirement and to benefit design (and admin)

… but a test so flawed as to be totally unworkable

Worried if at death (for any DSP **however small**)

if DSP coming into payment was disproportionate to
member's pension (post commutation and other options) in payment at death

- "Distorted" tax free cash sums;
  - Members commuting for >> 25% cash (scheme-specific protection)
  - Members commuting for cash with factor much lower than £20 per £1pa

- Surrender for DSP at retirement
- PIEs if impacting member but not DSP

- Lifetime Allowance case with XSLTA cash-out on a single life basis
- Member pension reduced for LTA charge (always single life) or AA Scheme Pays (if single life)

- Top up schemes (eg member pensionof N/30-N/60, DSP of 2/3 x N/30 - 50% x N/60)
- Early retirement factors applied solely to the member pension, not the DSP

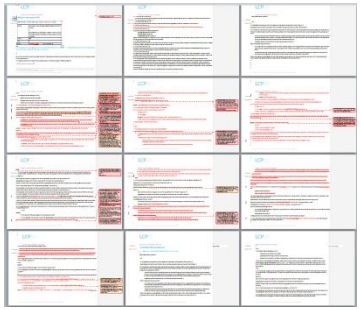
- High rates of pension increase (over inflation, and especially if over 5%)
  And depending on increases in payment, schemes with few pensioners

… and now the good news!

~~**PIE offers**~~

~~Small print "DSP risk, complexity, flawed, hard to explain or justify"~~





- Finance Bill 2016 dated 22 March 2016
- Not the hoped-for "complete replacement" but
- Some flaws addressed +
  new tool kits to limit the problems
  = **very helpful**
- **Continuing risk areas at the edges**

Caveat: early days of analysis, the following is principles and broad summary; there may be some rough edges needing snagging; and the consequences for pensions admin not yet worked through, not final legislation – some of it may change

In this slide pack "DSP" is used to mean the pension paid to the dependant(s) - without regard to whether it all qualifies for the label "dependant scheme pension" to make it an authorised payment; and the slides are simplified by ignoring the sharing out when there is more than one DSP

Examples where there will now be no problem

- **TEST <u>for 12 months after death (16B)</u>**
- NOT A PROBLEM IF
  - total of DSP rates (at any time in the year) is less than the higher of
    - £25,000 pa (2016/17 and indexed by at least 5% each 6 April)
    - member pension rate [post options etc] immediately before death

So eg if contingent DSP for a current retirement is £24,000 and it will not increase by more than 5% pa cumulatively, it will clearly pass this at future death

- **TEST <u>for the next year after death and any 12 months thereafter (16C)</u>**

NOT A PROBLEM IN MOST CASES IF

- If at the 12 month start the scheme has 50+ pensioners AND
- IF, at a time in the period, the DSP's annual rate increases and
  - the dpt is within a group of 20+ pensioner members in the scheme all getting the same increase rate

- OR 16B passed + DSP increases post-death by less than cumulative 5% pa

New improved test

And further tools give reasonable credit for commutation for tax free cash

So worry (~~for any DSP~~) only if DSP is large + high combination of:

- "Distorted" tax free cash sums;
  - Members commuting for >> 25% cash (scheme-specific protection)
  - Members commuting for cash with factor much lower than £20 per £1pa

- Surrender for DSP at retirement
- PIEs if impacting member but not DSP

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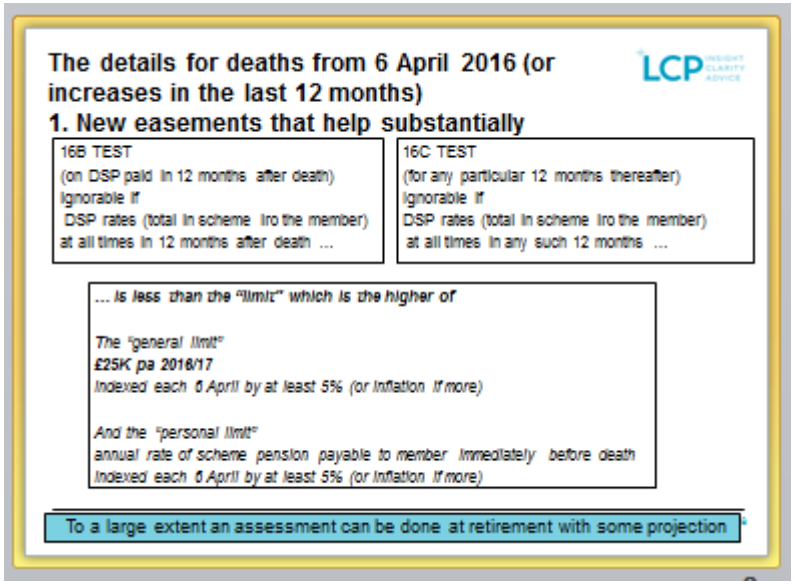
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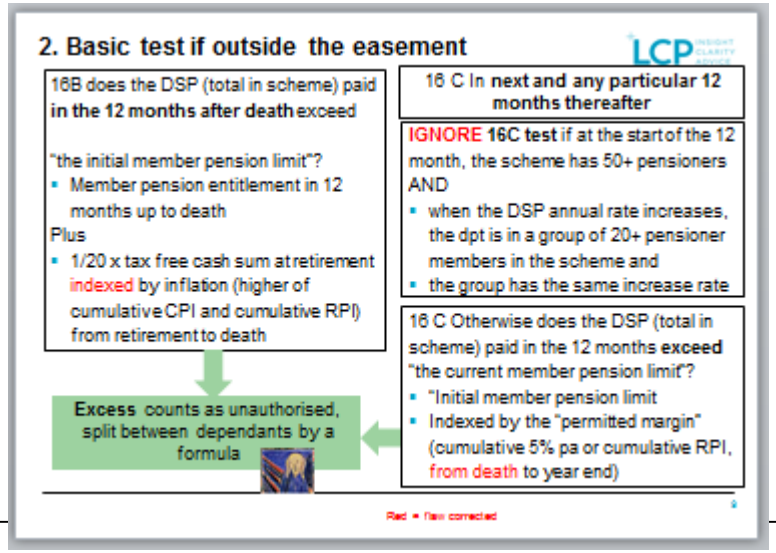
If "at the edge" look carefully at the detailed words in the law

New pack for relevant DSPs

for deaths on or after 6 April 2016
and for increases to DSPs for deaths on or after 5 April 2015

- Easements where test 16B (at death) or 16C(after death) do not apply
- otherwise, 16B and 16C detailed tests apply (less flawed) which, if failed, leads to unauthorised payment





And in the Annual Allowance world

A pitfall relevant to a lot of current projects ..

- Scenario:
  - your scheme normally has the deferred member carve-out
  - the scheme grants a “new” uplift to a deferred pensioner

- Issue: AA usage in the tax year of the grant will be
  - NOT ONLY the uplift
  - but ALSO the revaluation in the year normally carved out
  - less the AA CPI allowance for the tax year



… and in the new Tapered AA world

Clarity soon on Scheme Pays (and information provision) obligations

Scheme Pays rights only if AA usage in a scheme exceeds £40K?

Scope

- This generic presentation should not be relied upon for detailed advice or taken as an authoritative statement of the law.
- The tax examples given are purely for illustration and ignore tax allowances and other important details.
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